

By: Flynn, VanDeaver

H.B. No. 2180

A BILL TO BE ENTITLED

AN ACT

relating to the Sulphur River Basin Authority, following recommendations of the Sunset Advisory Commission.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1A(a), Chapter 3, Acts of the 69th Legislature, 1st Called Session, 1985, as repealed by Chapter 938 (H.B. 3123), Acts of the 84th Legislature, Regular Session, 2015, and amended by Chapter 1148 (S.B. 523), Acts of the 84th Legislature, Regular Session, 2015, is reenacted and amended to read as follows:

(a) The authority is subject to review under Chapter 325, Government Code (Texas Sunset Act), but may not be abolished under that chapter. The review shall be conducted under Section 325.025, Government Code, as if the authority were a state agency scheduled to be abolished September 1, 2029 [~~2017~~], and every 12th year after that year.

SECTION 2. Section 2(11), Chapter 3, Acts of the 69th Legislature, 1st Called Session, 1985, is amended to read as follows:

(11) "Waste" means sewage, industrial waste, municipal waste, recreational waste, agricultural waste, or waste heat [~~, solid waste, or any other waste~~].

SECTION 3. Section 3(a), Chapter 3, Acts of the 69th Legislature, 1st Called Session, 1985, is amended to read as

1 follows:

2 (a) The authority is composed of the territory in each
3 county in Texas, other than Fannin County, that is located in whole
4 or in part within the watershed of the Sulphur River and its
5 tributaries with confluences with the Sulphur River upstream from
6 the eastern boundary of Texas, as those watersheds and tributaries
7 are defined by maps now on file with the development board [~~Texas~~
8 ~~Department of Water Resources~~].

9 SECTION 4. Section 4, Chapter 3, Acts of the 69th
10 Legislature, 1st Called Session, 1985, is amended to read as
11 follows:

12 Sec. 4. AUTHORITY PURPOSES. The purpose of this Act is to
13 authorize the authority to provide for the conservation and
14 development of the state's natural resources within the basin of
15 Sulphur River, including:

16 (1) the control, storage, preservation, and
17 distribution of the state's water for domestic and municipal uses,
18 industrial uses, irrigation, mining and recovery of minerals, stock
19 raising, underground water recharge, electric power generation,
20 navigation, [~~recreation and pleasure,~~] and other beneficial uses
21 and purposes;

22 (2) the reclamation and irrigation of land needing
23 irrigation;

24 (3) the reclamation and drainage of overflowed land
25 and other land needing drainage;

26 (4) the maintenance and enhancement of the quality of
27 the water;

1 (5) the conservation and development of the [~~forests,~~
2 water [~~, and hydroelectric power~~];

3 (6) the navigation of inland water; and

4 (7) the provision of systems, facilities, and
5 procedures for the collection, transportation, handling,
6 treatment, and disposal of waste [~~of all types~~].

7 SECTION 5. Section 6, Chapter 3, Acts of the 69th
8 Legislature, 1st Called Session, 1985, is amended by amending
9 Subsections (a), (b), (c), and (i) and adding Subsection (j) to read
10 as follows:

11 (a) The authority shall be governed by a board of directors
12 composed of seven [~~six~~] members. The members of the board shall be
13 appointed by the governor with the advice and consent of the senate.
14 One member of the board shall be appointed to represent the
15 authority at large. Two members of the board shall be appointed
16 from each of the following regions:

17 (1) Region 1: Bowie and Red River counties;

18 (2) Region 2: Cass, Franklin, Hunt, Morris, and Titus
19 counties; and

20 (3) Region 3: Delta, Hopkins, and Lamar counties.

21 (b) Each member of the board must be a qualified elector. A
22 member of the board appointed to represent a region under
23 Subsection (a) must be [~~and~~] a resident of a county in the region
24 for which the member [~~he~~] is appointed.

25 (c) Each [~~Except for the initial members of the board, each~~]
26 member of the board shall serve for a term of six years and until the
27 member's [~~his~~] successor has qualified. [~~Of the six initial~~

1 ~~members appointed by the governor, the governor shall designate two~~
2 ~~members to serve for terms that expire on February 1, 1987, two~~
3 ~~members to serve for terms that expire on February 1, 1989, and two~~
4 ~~members to serve for terms that expire on February 1, 1991.]~~

5 (i) The governor shall designate a member of the board as
6 the presiding officer of the board to serve in that capacity at the
7 pleasure of the governor.

8 (j) The board shall elect [~~a president,~~] one or more
9 vice-presidents, a secretary, a treasurer, and other officers as
10 the members of the board consider necessary. The presiding officer
11 [~~president~~] and vice-president must be members of the board, but
12 other officers are not required to be members of the board. The
13 offices of the secretary and treasurer may be combined, and the
14 offices of assistant secretary and assistant treasurer may be
15 combined.

16 SECTION 6. Chapter 3, Acts of the 69th Legislature, 1st
17 Called Session, 1985, is amended by adding Sections 6A and 6B to
18 read as follows:

19 Sec. 6A. BOARD MEMBER TRAINING. (a) A person who is
20 appointed to and qualifies for office as a member of the board may
21 not vote, deliberate, or be counted as a member in attendance at a
22 meeting of the board until the person completes a training program
23 that complies with this section.

24 (b) The training program must provide the person with
25 information regarding:

- 26 (1) the law governing authority operations;
27 (2) the programs, functions, rules, and budget of the

1 authority;

2 (3) the scope of and limitations on the rulemaking
3 authority of the authority;

4 (4) the results of the most recent formal audit of the
5 authority;

6 (5) the requirements of:

7 (A) laws relating to open meetings, public
8 information, administrative procedure, and disclosing conflicts of
9 interest; and

10 (B) other laws applicable to members of the
11 governing body of a river authority in performing their duties; and

12 (6) any applicable ethics policies adopted by the
13 board or the Texas Ethics Commission.

14 (c) A person appointed to the board is entitled to
15 reimbursement for the travel expenses incurred in attending the
16 training program regardless of whether the attendance at the
17 program occurs before or after the person qualifies for office.

18 (d) The board shall create a training manual that includes
19 the information required by Subsection (b). The board shall
20 distribute a copy of the training manual annually to each member of
21 the board. On receipt of the training manual, each member of the
22 board shall sign a statement acknowledging receipt of the training
23 manual.

24 Sec. 6B. USE OF ALTERNATIVE RULEMAKING AND DISPUTE
25 RESOLUTION. (a) The board shall develop a policy to encourage the
26 use of:

27 (1) negotiated rulemaking procedures under Chapter

1 2008, Government Code, for the adoption of authority rules; and
2 (2) appropriate alternative dispute resolution
3 procedures under Chapter 2009, Government Code, to assist in the
4 resolution of internal and external disputes under the authority's
5 jurisdiction.

6 (b) The authority's procedures relating to alternative
7 dispute resolution must conform, to the extent possible, to any
8 model guidelines issued by the State Office of Administrative
9 Hearings for the use of alternative dispute resolution by state
10 agencies.

11 (c) The authority shall:

12 (1) coordinate the implementation of the policy
13 adopted under Subsection (a);

14 (2) provide training as needed to implement the
15 procedures for negotiated rulemaking or alternative dispute
16 resolution; and

17 (3) collect data concerning the effectiveness of those
18 procedures.

19 SECTION 7. Section 8, Chapter 3, Acts of the 69th
20 Legislature, 1st Called Session, 1985, is amended by adding
21 Subsection (c) to read as follows:

22 (c) A director's compensation may be increased as
23 authorized by Section 49.060, Water Code, by resolution adopted by
24 the board in accordance with Subsection (e) of that section on or
25 after September 1, 1995.

26 SECTION 8. Chapter 3, Acts of the 69th Legislature, 1st
27 Called Session, 1985, is amended by adding Sections 10A and 13A to

1 read as follows:

2 Sec. 10A. SEPARATION OF POLICYMAKING AND MANAGEMENT
3 FUNCTIONS. The board shall develop and implement policies that
4 clearly separate the policymaking responsibilities of the board and
5 the management responsibilities of the executive director and staff
6 of the authority.

7 Sec. 13A. COMPLAINTS. (a) The authority shall maintain a
8 system to promptly and efficiently act on complaints filed with the
9 authority. The authority shall maintain information about parties
10 to the complaint, the subject matter of the complaint, a summary of
11 the results of the review or investigation of the complaint, and its
12 disposition.

13 (b) The authority shall make information available
14 describing its procedures for complaint investigation and
15 resolution.

16 (c) The authority shall periodically notify the complaint
17 parties of the status of the complaint until final disposition.

18 SECTION 9. Sections 17(b) and (d), Chapter 3, Acts of the
19 69th Legislature, 1st Called Session, 1985, are amended to read as
20 follows:

21 (b) The authority may exercise the powers of control and use
22 of the state's water in the manner and for the following purposes:

23 (1) to provide for the control and coordination of
24 water use in the basin as a unit;

25 (2) to provide by adequate organization and
26 administration for the preservation of the rights of the people of
27 the different sections of the basin in the beneficial use of water;

1 (3) to provide for conserving storm water, floodwater,
2 and unappropriated flow of the basin, including the storage,
3 control, transportation, treatment, and distribution of that
4 water, and the prevention of the escape of water without the maximum
5 of public service and for the prevention of devastation of land from
6 recurrent overflows, and the protection of life and property in the
7 river basin from uncontrolled floodwater;

8 (4) to provide for the conservation of water essential
9 for domestic and other water uses of the people of the basin,
10 including necessary water supplies for cities, towns, and
11 industrial districts;

12 (5) to provide for the irrigation of land in the basin
13 where irrigation is required for agricultural purposes or is
14 considered helpful to more profitable agricultural production and
15 for the equitable distribution of storm water, floodwater, and
16 unappropriated flow water to the regional potential requirements
17 for all uses;

18 (6) to provide for the encouragement and development
19 of drainage systems and provisions for drainage of land in the
20 valleys of the basin needing drainage for profitable agricultural
21 and livestock production and industrial activities, and other
22 drainage of land for the most advantageous use;

23 (7) to provide for the conservation of soil against
24 destructive erosion, thereby preventing the increased flood menace
25 incident to erosion;

26 (8) to control and make available for use storm water,
27 floodwater, and unappropriated flow water as authorized by the

1 commission, in the development of commercial and industrial
2 enterprises in all sections of the watershed area of the authority;

3 (9) [~~to provide for the control, storage, and use of~~
4 ~~storm water, floodwater, and unappropriated flow water in the~~
5 ~~development and distribution of hydroelectric power, where this use~~
6 ~~may be economically coordinated with other and superior uses, and~~
7 ~~subordinated to the uses declared by law to be superior,~~

8 [~~(10)~~] to provide for each purpose and use for which
9 storm water, floodwater, and unappropriated flow water when
10 controlled and conserved may be used in the performance of a useful
11 service as contemplated and authorized by the provisions of the
12 constitution and laws of this state;

13 (10) [~~(11)~~] to control, store, and preserve the water
14 of the basin inside the boundaries of the authority for any useful
15 purpose;

16 (11) [~~(12)~~] to use, distribute, and sell water for any
17 beneficial purpose inside and outside the authority; and

18 (12) [~~(13)~~] to acquire water and water rights inside
19 and outside the authority.

20 (d) The authority shall adopt and implement a program of
21 water conservation consistent with rules and criteria duly adopted
22 and enforceable by the commission and development board
23 [~~department~~] for similarly situated authorities. A program of
24 water conservation means the use of practices, techniques, and
25 technologies that will reduce the consumption of water, reduce the
26 loss or waste of water, improve efficiency in the use of water, or
27 increase the recycling and reuse of water so that a water supply is

1 made available for future uses.

2 SECTION 10. Sections 20 and 23, Chapter 3, Acts of the 69th
3 Legislature, 1st Called Session, 1985, are amended to read as
4 follows:

5 Sec. 20. WATER QUALITY CONTROL. The authority is a river
6 authority for the purposes and definitions of Chapter 30, Water
7 Code, and the Clean Air Financing Act (Article 4477-5a, Vernon's
8 Texas Civil Statutes) [~~, and the Solid Waste Resource Recovery~~
9 ~~Financing Act (Article 4477-7a, Vernon's Texas Civil Statutes)~~] as
10 they apply to the authority. If a provision of the Clean Air
11 Financing Act [~~one of those Acts~~] conflicts with this Act, this Act
12 prevails.

13 Sec. 23. PERMITS AND LICENSES. (a) The authority shall
14 apply for any permits, licenses, [~~franchises,~~] and other grants of
15 authority required from the commission.

16 (b) The authority may apply for any permits, licenses,
17 [~~franchises,~~] and financial assistance it may need from [~~the~~
18 ~~department or~~] any federal, state, or local governmental agency.

19 (c) Before voting on a proposed project for which the board
20 will seek a permit, the board shall obtain advice on the proposed
21 project from the county judge of each county in which the proposed
22 project is proposed to be located.

23 SECTION 11. Section 24(a), Chapter 3, Acts of the 69th
24 Legislature, 1st Called Session, 1985, is amended to read as
25 follows:

26 (a) The authority may enter into service contracts and may
27 adopt resolutions and orders establishing rates and providing for

1 the collection of fees and charges for the sale or use of water, the
2 services of water transmission, treatment, and storage facilities,
3 ~~[solid and]~~ liquid waste collection, treatment and disposal
4 facilities and services, ~~[the use of park and recreational~~
5 ~~facilities,~~] the sale of power and electric energy, and any other
6 services or facilities sold, furnished, or supplied by the
7 authority.

8 SECTION 12. Sections 29(b) and (c), Chapter 3, Acts of the
9 69th Legislature, 1st Called Session, 1985, are amended to read as
10 follows:

11 (b) Notwithstanding any other law, the authority may:

12 (1) undertake and carry out any activities that are
13 related to or necessary in carrying out or performing any power or
14 function of the authority;

15 (2) [] enter into contracts, loan agreements, leases,
16 or installment sales agreements; [] and

17 (3) acquire, purchase, construct, own, operate,
18 maintain, repair, improve, or extend, and loan, lease, sell, or
19 otherwise dispose of, including by such methods as loan payments,
20 rentals, sales, and installment sales, as the parties may agree,
21 any facilities, plants, buildings, structures, equipment, and
22 appliances and [] property or any interest in property; [] and

23 (4) use any or all money or proceeds of bonds and other
24 obligations. [This may be accomplished by such methods as loan
25 payments, rentals, sales, and installment sales.]

26 (c) All persons are authorized to contract with the
27 authority in any manner authorized by this Act, Chapter 30, Water

1 Code, and the Clean Air Financing Act (Article 4477-5a, Vernon's
2 Texas Civil Statutes)[~~, and the Solid Waste Resource Recovery~~
3 ~~Financing Act (Article 4477-7a, Vernon's Texas Civil Statutes),~~
4 with respect to water, waste, pollution control, or any other
5 facilities and any services provided by the authority. A public
6 agency also may enter into and execute such a contract with the
7 authority and may determine, agree, and pledge that all or any part
8 of its payments under the contract is payable from the source
9 described in Section 30.030(c), Water Code, subject only to the
10 authorization of the contract, pledge, and payments by the
11 governing body of the public agency. A public agency also may use
12 and pledge any other available revenues or resources for payment of
13 amounts due under those contracts, as an additional source or
14 sources of payment or as the sole source or sources of payment.

15 SECTION 13. Section 37, Chapter 3, Acts of the 69th
16 Legislature, 1st Called Session, 1985, is amended to read as
17 follows:

18 Sec. 37. WORK WITH DEVELOPMENT BOARD. (a) The authority
19 has and may exercise all the powers vested in political
20 subdivisions under Title 2, Water Code.

21 (b) The authority has and may exercise[~~, including~~]
22 powers necessary to enable the authority to participate in the
23 programs administered by the development board [~~department~~]
24 acquisition and development of facilities, the sale or lease of
25 facilities, financial assistance to political subdivisions, and
26 other programs administered by the development board.

27 SECTION 14. The following sections of Chapter 3, Acts of the

1 69th Legislature, 1st Called Session, 1985, are repealed:

2 (1) Section 2(5);

3 (2) Section 18;

4 (3) Section 21; and

5 (4) Section 22.

6 SECTION 15. (a) The terms of the members of the board of
7 directors of the Sulphur River Basin Authority serving on the
8 effective date of this Act expire on September 1, 2017.

9 (b) Not later than September 2, 2017, the governor shall
10 make the appointments required by Section 6, Chapter 3, Acts of the
11 69th Legislature, 1st Called Session, 1985, as amended by this Act.

12 (c) Notwithstanding Section 6(c), Chapter 3, Acts of the
13 69th Legislature, 1st Called Session, 1985, as amended by this Act,
14 of the seven initial members appointed by the governor under that
15 section, the governor shall designate two members to serve for
16 terms that expire on February 1, 2019, two members to serve for
17 terms that expire on February 1, 2021, and three members to serve
18 for terms that expire on February 1, 2023.

19 (d) The governor may appoint to the board of directors under
20 Subsection (b) of this section a member whose term expires under
21 Subsection (a) of this section.

22 SECTION 16. (a) Notwithstanding Section 6A, Chapter 3,
23 Acts of the 69th Legislature, 1st Called Session, 1985, as added by
24 this Act, a person serving on the board of directors of the Sulphur
25 River Basin Authority may vote, deliberate, and be counted as a
26 director in attendance at a meeting of the board until December 1,
27 2017.

1 (b) This section expires January 1, 2018.

2 SECTION 17. (a) The legal notice of the intention to
3 introduce this Act, setting forth the general substance of this
4 Act, has been published as provided by law, and the notice and a
5 copy of this Act have been furnished to all persons, agencies,
6 officials, or entities to which they are required to be furnished
7 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
8 Government Code.

9 (b) The governor, one of the required recipients, has
10 submitted the notice and Act to the Texas Commission on
11 Environmental Quality.

12 (c) The Texas Commission on Environmental Quality has filed
13 its recommendations relating to this Act with the governor, the
14 lieutenant governor, and the speaker of the house of
15 representatives within the required time.

16 (d) All requirements of the constitution and laws of this
17 state and the rules and procedures of the legislature with respect
18 to the notice, introduction, and passage of this Act are fulfilled
19 and accomplished.

20 SECTION 18. This Act takes effect September 1, 2017.